LIBEL—NEWSPAPERS—PUNITIVE DAMAGES—LIABILITY OF OWNER FOR ACTS OF MANAGER.—CRANE V. BENNETT, 69 N. E. 274 (N. Y.).—Where a newspaper publishes a libel with aggravating circumstances, *held*, that the owner is liable in punitive damages for acts committed by his manager in his absence.

In general, it is recognized that acts done by an employe cannot ordinarily render the employer liable in punitive damages, *Hagan v. R. R.*, 3 R. I. 38; *Cleghorn v. R. R.*, 56 N. Y. 44, the necessary malice being absent. This is not, however. the uniform rule; *Canfield v. R. R.*, 59 Mo. App. 354; *Fell v. Northern Pac. R. R.*, 48 Fed. 248. The principal case follows the dissenting opinion in *Samuels v. Evening Mail Ass'n.*, 9 Hun. 288, 294, afterward affirmed by the New York Court of Appeals, 75 N. Y. 604. It being thoroughly settled that the proprietor of a newspaper is liable in compensatory damages for any tort committed by it in his absence; *Curtis v. Muzzy*, 6 Gray 251. It would seem that where the proprietor has so thoroughly alienated the business from his control, and has put himself away from all oversight, he should be responsible for the conduct of the business so delegated to his manager, in the same extent as if he himself published the libel.

LIMITATION OF ACTIONS—NEW PROMISE—ACKNOWLEDGMENT BY AGENT—PROMISSORY NOTE.—DERAISMES V. DERAISMES, 56 ATL. 170 (N. J.).—*Held*, that under a statute requiring that an acknowledgment, to defeat the operation of limitations, must be in writing, signed by the party chargeable thereby, a written promise to pay a note by an agent of the person to be bound thereby is insufficient.

Before Lord Tenterden's Act requiring signature of the person chargeable, an acknowledgment by a wife was sufficient, when the wife had been accustomed to act as agent of her husband in his business generally. *Anderson v. Sanderson*, 9 Stark 204; Holt 591. So, in an action against a husband for goods supplied to his wife, a letter written by the wife acknowledging the debt was admissible to take the case out of the statute. *Gregory v. Parker*, 1 Camp. 394. But after Lord Tenterden's Act, an acknowledgment contained in a letter written by the wife of a debtor, in his name and at his request, was insufficient, because the statute gave no authority to an agent to make acknowledgment. *Hyde v. Johnson*, 3 Scott 289; 2 Bing. N. C. 776. Yet where an agent had been employed to pay money for work done, and the workmen were referred to him for payment, and he assented to it, an acknowledgment or a promise by him to pay was sufficient. *Burt v. Palmer*, 5 Esp. 145. The principal case seems to indicate the need for an amendment in New Jersey permitting acknowledgment of debts by duly authorized agents, as allowed by the act of 19 and 20 Vict., c. 97.

MASTER AND SERVANT—INJURY TO SERVANT—ASSUMPTION OF RISK.—MUSSER LAND, LOGGING & MFG. CO. V. BROWN, 126 FED. 141 (C. C. A.).—Plaintiff was employed in unloading logs from a sled on which they were bound with a chain, which plaintiff loosened by knocking out a hook with an ax. He requested an ax with a longer handle, and the foreman promised one, telling him to continue his work until the other ax could be provided. *Held*, that, in full knowledge of the danger, he assumed the risk, which precluded his recovery.

The gist of the question involved is whether, despite a promise of the master to supply a tool not defective and a request that the employe continue

in the service until that could be done, the danger was so obvious and imminent as to render the servant liable for contributory negligence. It is well settled that a servant who knowingly undertakes a hazardous work, assumes the risk. *Coal Co. v. Jones,* 127 Ill. 379; *Welton v. Railroad Co.,* 72 Mass. 555. But there is great conflict of decisions as to how far a promise on the part of the master to repair and a request that the servant continue in the employment, will relieve the servant, in case of injury caused by the defect, from a charge of contributory negligence. In *Erdman v. Steel Co.,* 95 Wis. 6, and *Indianapolis & St. L. R. Co., v. Watson,* 114 Ind. 20, it is held that a servant is relieved from all liability, except when he continues in an employment so fraught with perils that a man of ordinary prudence would not undertake it. Other cases hold that a promise to repair shifts all liability upon the master, except when it should be obvious to the employe that to continue the work meant imminent, if not inevitable, injury. *Green v. Railroad Co.,* 31 Minn. 248; *Rothenberg v. N. W. Consol. Mfg. Co.,* 57 Minn. 461; *Dells Lumber Co. v. Erickson,* 25 C. C. A. 397; *Hough v. Railway Co.,* 100 U. S. 213. The justifiability of the servant in remaining in the employment, after a promise to repair, is generally held to be a question for the jury. *Lynch v. Allyn,* 160 Mass. 249; *Smith v. Backus Lumber Co.,* 64 Minn. 447; *Hough v. Railway Co., supra; Woods on Master and Servant,* Secs. 378-381. The same rule is followed in England. *Clark v .Holmes,* 7 H. & N. 937. Thus the decision under consideration, in holding that the case should have been taken from the jury, would seem to rest on doubtful ground.

MASTER AND SERVANT—INJURIES—FELLOW SERVANT.—DONNELLY V. MINING CO., 77 S. W. 130 (Mo.).—*Held,* that a foreman in charge of a crew of miners is not a fellow servant with the men while taking part in their work, so as to relieve the master from the liability of his negligence in doing the work.

In an Indiana case where the circumstances were very similar to those in the principal case, the court held that the negligence was that of a fellow servant. *Stone Co. v. Chastain,* 9 Ind. App. 453. And this is in harmony with the accepted doctrine that the employer is not liable to the employe for the negligence of a superintendent in doing the work of a co-employe, the liability arising only where such negligence occurs in the exercise of superintendence. *Quinn v. Lighterage Co.,* 23 Fed. 363; *Crispin v. Babbitt,* 81 N. Y. 516; *Hontford v. Railroad Co.,* 91 Wis. 374; *Legrone v. Railroad Co.,* 67 Miss. 592. In England it is provided under the Employers' Liability Act of 1880 that where a workman is injured through the negligent act of a superintendent, damages may be recovered from the employer in those cases only where it is shown that the negligence occurred in the exercise of superintendence. Similar statutes have been enacted in several of the States in this country. But decisions consonant with that in the principal case and against the weight of authority have been rendered in *Shumway v. Manufacturing Co.,* 98 Mich. 411; *Sweeney v. Railroad Co.,* 84 Tex. 433.

MUNCIPAL CORPORATIONS—DEFECTIVE SIDEWALK—NOTICE.—MCMANUS V. CITY OF WATERTOWN, 84 N. Y. SUPP. 638.—A municipal charter required actual notice of defects in the sidewalk as a pre-requisite to an action for